



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3188

**MEMORANDUM**

**TO:** Lower Umatilla Basin – Initial Review Group

**FROM:** Ed Kowalski\_\_\_\_\_, Daniel Opalski\_\_\_\_\_, Lucy Edmondson\_\_\_\_\_

**SUBJECT:** Lower Umatilla Basin Petition Initial Review

Purpose:

The purpose of this group is to assess the content of the petition submitted by nine parties through a package dated January 16, 2020 regarding nitrate contamination of groundwater in the Lower Umatilla Basin, located in northeastern Oregon. The petition requests that EPA exercise its emergency authorities under the Safe Drinking Water Act (i.e. Section 1431).

The purpose of this memorandum is to ensure that the review efforts of the involved staff are timely, objective, and appropriately focused. Moreover, it memorializes the instruction provided to the group.

Scope:

The group's scope involves two tasks.

***TASK 1: Review of the Petition and Appendices:*** The group shall make specific team assignments to assess and answer these overarching questions:

- (1) Is the data on which the claims are based verifiable, has the data been presented accurately in the petition, and does the data available from State agencies confirm the representations made in the petition?
- (2) Is the petition package so compelling and so well substantiated that EPA should issue an immediate 1431 order?
- (3) If question 2 is "no", is the substantiation behind the claims of imminent and substantial endangerment of drinking water substantial enough to warrant further inquiry with State agencies?
- (4) Does the petition package result in a substantial question about the adequacy of the State's actions to date, thereby warranting further inquiry with the State agencies?
- (5) Does the petition package result in a substantial question about the effectiveness of the LUB GWMA and more specifically, the effectiveness of voluntary approaches?

***TASK 2: Planning for Subsequent Review:***

If the answer to all five governing questions is "no" and moreover, if the petition package - as submitted - is found to be dubious or without merit, a written response informing the petitioner of EPA's

findings will be developed, and a summary of the review shall be developed for the file.

If the answer to any of the above questions is “yes”, an appropriate plan for further review with the State of Oregon and stakeholders will be developed. Task 2 shall include developing the scope, the staff assignments and the framework for the subsequent review efforts.

Restrictions and Parameters:

The scope of this group is limited to the Task 1 and 2, described above. The group activities will primarily involve internal activities and minimal (i.e. informal) interaction with the State of Oregon. The informal interaction with the State will be limited to confirmation that EPA is utilizing accurate data for assessment, and to determine what steps the State has taken related to public water systems affected by nitrates in eastern/central Oregon.

Communication Plan:

At the initiation, the group will work with the Office of Public Affairs to prepare a general statement of initial response based on the review described in this document.

Timeframe:

The results of this group’s review shall be complete and recommendation(s) presented to the executive sponsors by Monday, March 2, 2020, so that an interim or final response may be sent to the petitioner in early March 2020.

Executive Leadership (Sponsors):

Edward Kowalski (Director, Enforcement and Compliance Division), Daniel Opalski (Director, Water Division), Lucy Edmondson (Agriculture Sector Executive), Tony Barber (Director, Oregon Operations Office)

Executive Team Representative:

Lucy Edmondson. The purpose of this role will be to liaise between the group and the Region 10 Executive Leadership, and where appropriate offer guidance should additional questions of scope and intent arise during the review.

Management:

Jointly by Jeff Kenknight (Chief, Water Enforcement and Field Branch) and Mat Martinson (Chief, Permitting, Drinking Water and Infrastructure). These individuals shall set intermediate deadlines and generally manage the implementation of the efforts.

Staff Participation and Role:

In all roles, the staff will be reviewing information with a focus on the Task 1 questions above, and the development of an subsequent plan for further review, if determined necessary and appropriate.

Staff, Title:

Role:

Nick Peak, Agriculture Sector Lead

Review information related to agricultural practices and contributions to nitrate pollution. Review the second LUB GWMA plan. If pursued, contribute to the scoping and planning of subsequent review efforts.

Peter Contreras, Section Chief Drinking Water Enforcement	Evaluate public water system compliance. Contribute to the summary, and if pursued, contribute to the scoping and planning of subsequent review efforts.
Karen Burgess, Section Chief Groundwater and Drinking Water	Evaluate public water system compliance. Contribute to the summary, and if pursued, contribute to the scoping and planning of subsequent review efforts.
Eric Winiecki, Compliance Officer	Review data related to nitrate contamination of individual wells in the petition. Review publicly-available data relating to the same. Contribute to the summary, and if pursued, contribute to the scoping and planning of subsequent review efforts.
Adam Baron, Enforcement Specialist	Review Oregon OHA public water system data regarding nitrates, enforcement actions, and violations in readily available data. Contribute to the summary, and if pursued, contribute to the scoping and planning of subsequent review efforts.
Jennifer MacDonald, Attorney Advisor	Provide counsel on records management as it relates to the review and the summarization efforts.
Clarke Thurmon, Attorney Advisor	Provide counsel on the applicable statutes and regulations. If pursued, provide advice and counsel related to subsequent review efforts.

cc:

Regional Administrator, EPA Region 10

Deputy Regional Administrator, EPA Region 10